DESCRIPTION OF POSSIBLE TAX SIMPLIFICATION AND TECHNICAL CORRECTIONS LEGISLATION (H.R. 13 AND H.R. 17, AS MODIFIED IN H.R. 3419)

Scheduled for Markup

by the

HOUSE COMMITTEE ON WAYS AND MEANS

on November 3, 1993

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

November 2, 1993

JCX-13-93

CONTENTS

	Page
INTRODUCTION	1
TAX SIMPLIFICATION	3
I. PART ONE: MODIFICATIONS TO THE PROVISIONS OF H.R. 13 IN H.R. 3419	3
A. Title I--Provisions Relating to Individuals	3
B. Title II--Pension Simplification	3
C. Title III--Treatment of Large Partnerships	4
D. Title IV--Foreign Provisions	4
E. Title V--Treatment of Intangibles	5
F. Title VI--Other Income Tax Provisions	5
G. Title VII--Estate And Gift Tax Provisions	6
H. Title VIII--Excise Tax Simplification	6
I. Title IX--Administrative Provisions	6
II. PART TWO: ADDITIONAL SIMPLIFICATION PROVISIONS IN H.R. 3419	7
A. In General	7
B. Administrative Practice and Procedural Simplification	9
III. PART THREE: REVENUE-RAISING PROVISIONS IN H.R. 3419 . .	16
A. Require Taxpayers to Include Rental Value of Residence in Income Without Regard to Period of Rental	16
B. Treat Certain Foreign Corporate Dividends and Deemed Income Inclusions as Unrelated Business Taxable Income	16
C. Withholding on Gambling Winnings from Bingo and Keno	18
D. Require Thrift Institutions to Take Net Operating Loss Carryovers into Account for Purposes of	

Calculating Bad Debt Reserves Under the Percentage of Income Method 19

TECHNICAL CORRECTIONS 21

I. PART ONE: MODIFICATIONS TO THE PROVISIONS OF H.R. 17 IN H.R. 3419 21

A. Delete Provision Relating to Minimum Tax Rate on Certain Nonresident Aliens (sec. 101(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code) 21

B. Delete Provision Relating to Tax Rate of Personal Holding Companies (sec. 101(a)(4) of the bill, sec. 11101 of the 1990 Act, and sec. 541 of the Code) 21

C. Delete Provision Relating to Definition of AGI for the Earned Income Tax Credit and the Supplemental Earned Income Tax Credit for Health Insurance Premiums (sec. 101(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code) 21

D. Delete Provision Relating to Tax on Certain Uses (sec. 101(b)(2) of the bill, sec. 1703(a) of the Tax Reform Act of 1986, and sec. 4082 of the Code) 21

E. Modify Provision Relating to Treatment of Salvage and Subrogation of Property and Casualty Insurance Companies (sec. 101(c)(4) of the bill and sec. 11305 of the 1990 Act) 22

F. Delete Provision Relating to Exclusion for Employer-provided Educational Assistance (sec. 101(d)(1) of the bill, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code) 22

G. Delete Provisions Relating to the Treatment of Certain Contributions Made Pursuant to Veterans' Reemployment Rights (sec. 102(j) of the bill and sec. 414(u) of the Code) 22

H. Delete Provision Relating to Treatment of Certain RIC and REIT Reorganizations (sec. 102(l) of the bill and sec. 852(a) of the Code) 23

I. Modify Effective Date Provision Relating to the Energy Policy Act of 1992 (sec. 102(m)(1) of the bill and sec. 53(d)(1)(B)(iii) and (iv) of the Code) 23

J. Modify Provision Relating to the Elimination of the Rounding Distortion in the Calculation of the Social Security Contribution and Benefit Base and the Earnings Test Exempt Amounts (sec. 202 of the bill and 42 U.S.C. 430(b)) 23

II. PART TWO: TECHNICAL CORRECTIONS TO THE 1993 ACT IN H.R. 3419 24

A. Treatment of Full-Time Students Under the Low-income Housing Credit (sec. 13142 of the 1993 Act and sec. 42 of the Code) 24

B. Indexation of the Limitation Based on Modified Adjusted Gross Income for Income from United States Savings Bonds Used to Pay Higher Education Tuition and Fees (sec. 13201 of the 1993 Act and sec. 135(b)(2)(B) of the Code) 24

C. Indexation of the Limitation on Compensation Taken into Account for Qualified Retirement Plan Purposes (sec. 13212 of the 1993 Act and sec. 401(a)(17) of the Code) 25

D. Reporting and Notification Requirements for Lobbying and Political Expenditures of Tax-Exempt Organizations (sec. 13222 of the 1993 Act and sec. 6033(e) of the Code) 25

E. Estimated Tax Rules for Certain Tax-Exempt Organizations (sec. 13225 of the 1993 Act and sec. 6655(g)(3) of the Code) 26

F. Current Taxation of Certain Earnings of Controlled Foreign Corporations--Measurement of Accumulated Earnings (sec. 13231(b) of the 1993 Act and sec. 956A(b) of the Code) 27

G. Current Taxation of Certain Earnings of Controlled Foreign Corporations--Aggregation and Look-through Rules (sec. 13231(b) of the 1993 Act and sec. 956A(f) of the Code) 27

H. Treatment of Certain Leased Assets for PFIC Purposes (sec. 13231(d)(4) of the 1993 Act and sec. 1297(d) of the Code) 28

I. Amortization of Goodwill and Certain Other Intangibles (sec. 13261(g) of the 1993 Act and sec. 197 of the Code) 29

J. Empowerment Zones and Eligibility of Small Farms for Tax Incentives (sec. 13301 of the 1993 Act and sec. 1397B(d)(5)(B) of the Code) 30

III. PART THREE: TECHNICAL CORRECTION AND MODIFICATION TO THE LUXURY TAX IN H.R. 3419 31

A. Indexation of Threshold Applicable to Excise Tax on Luxury Automobiles (sec. 13161 of the 1993 Act and sec. 4001(e)(1) of the Code) 31

INTRODUCTION

The House Ways and Means Committee has scheduled a markup of possible tax simplification and technical corrections legislation for November 3, 1993. On November 1, 1993, Chairman Rostenkowski introduced the Tax Simplification and Technical Corrections Act of 1993 (H.R. 3419), which combined and modified the provisions of the Tax Simplification Act of 1993 (H.R. 13) and the Technical Corrections Act of 1993 (H.R. 17) introduced earlier this year. This document,[1] prepared by the staff of the Joint Committee on Taxation, describes the modifications made to H.R. 13 and H.R. 17 in the drafting of H.R. 3419.

Simplification

In response to Chairman Rostenkowski's February 1990 request for proposals to simplify the tax laws, the Committee on Ways and Means received proposals from the public, tax professionals, the Secretary of the Treasury, and congressional tax-writing staff. Those proposals were published in an 1,100-page Committee Print.[2] Certain of these simplification proposals were introduced in several bills in the 102d Congress, most of which were passed as part of H.R. 4210 and H.R. 11, which were vetoed by President Bush.

Chairman Rostenkowski introduced H.R. 13 on January 5, 1993, generally to mirror the simplification provisions that were contained in the conference agreement on H.R. 11.[3] The staff of the Joint Committee on Taxation prepared a technical explanation of H.R. 13 as introduced.[4]

Part One of the Tax Simplification section of this document describes modifications made to the provisions of H.R. 13 in the drafting of H.R. 3419; Part Two describes additional simplification provisions in H.R. 3419; and Part Three describes

---

[1] This document may be cited as follows: Joint Committee on Taxation, Description of Possible Tax Simplification and Technical Corrections Legislation (H.R. 13 and H.R. 17, as Modified in H.R. 3419) (JCX-13-93), November 2, 1993.

[2] Committee on Ways and Means, Written Proposals on Tax Simplification (WMCP: 101-27), May 25, 1990.

[3] H. Rep. 102-1034, 102d Congress, 2d Session, October 5, 1992.

[4] Joint Committee on Taxation, Technical Explanation of the Tax Simplification Act of 1993 (H.R. 13) (JCS-1-93), January 8, 1993.

revenue-raising provisions in H.R. 3419. These modifications are reflected in Titles I-IX of H.R. 3419.

Technical Corrections

Technical corrections to the Omnibus Budget Reconciliation Act of 1990 (the "1990 Act") and other recently-enacted legislation within the jurisdiction of the Committee on Ways and Means were included in the conference agreement on H.R. 11.

Chairman Rostenkowski introduced H.R. 17 on January 5, 1993, based upon the provisions contained in H.R. 11. The staff of the Joint Committee on Taxation prepared a technical explanation of H.R. 17 as introduced.[5]

Part One of the Technical Corrections section of this document describes certain modifications made to the provisions of H.R. 17 in drafting H.R. 3419; Part Two describes additional technical corrections to the Omnibus Budget Reconciliation Act of 1993 (the "1993 Act") included in H.R. 3419; and Part Three describes a technical correction and modification to the luxury tax provision of the 1993 Act included in H.R. 3419. H.R. 3419 also includes clerical amendments to the 1993 Act and other legislation. These modifications are reflected in Title X of H.R. 3419.

---

[5] Joint Committee on Taxation, Explanation of Technical Corrections Act of 1993 (H.R. 17) (JCS-2-93), January 8, 1993.

TAX SIMPLIFICATION

PART ONE: MODIFICATIONS TO THE PROVISIONS OF H.R. 13 IN H.R. 3419

The following modifications to H.R. 13 have been made in the drafting of H.R. 3419:

Title I--Provisions Relating to Individuals

1. Delete section 101 of the bill (relating to the earned income credit) because the provisions of the 1993 Act made the provision in the bill obsolete.

2. Move the effective date of section 121 of the bill (providing a de minimis exception to the passive loss rules) from taxable years beginning after December 31, 1992, to taxable years beginning after December 31, 1993.

3. Move the effective date of section 123 of the bill (relating to modifications to election to include child's income on parent's return) from taxable years beginning after December 31, 1992, to taxable years beginning after December 31, 1993.

4. Move the effective date of section 124 of the bill (providing a simplified foreign tax credit limitation for individuals) from taxable years beginning after December 31, 1992, to taxable years beginning after December 31, 1993.

5. Delete section 128 of the bill (relating to luxury excise tax for certain equipment installed on passenger vehicles) because the provision was included in the 1993 Act.

6. Move the effective date of section 129 of the bill (relating to exclusion of combat pay from withholding limited to amount excludable from gross income) from remuneration paid after December 31, 1993, to remuneration paid after December 31, 1994.

Title II--Pension Simplification

1. Move the general effective date of section 236 of the bill (relating to the alternative full funding limitation) to January 1, 1995. The dates in the transition rule under the provision would be modified so that, in the case of an election period beginning on

or after July 1, 1994, and before January 1, 1995, the filing requirement of the provision is satisfied if notice is filed with the Secretary of the Treasury by October 1, 1994. In addition, the date the Secretary would be required to notify nonelecting plans of the revenue offset for the transition period would be moved from January 1, 1994, to January 1, 1995, and the revenue offset would apply to plan years beginning on or after July 1, 1994, and before January 1, 1995.

2. Delete section 242 of the bill (relating to the definition of affiliated employers for purposes of the rules relating to voluntary employees' beneficiary associations) because of revenue constraints.

Title III--Treatment of Large Partnerships

1. Add a catch-all category to the list of items from a large partnership that are separately reported to partners. The category would be used at the discretion of the Treasury Secretary, should changes in the law necessitate separate statement of any items.

2. Strike the deferred sale provision of the large partnership rules (Treasury regulations proposed under section 704(c) of the Code address the issue).

3. Change the general effective date for the large partnership simplification provisions from taxable years ending on or after December 31, 1993, to taxable years ending on or after December 31, 1994. Change the effective date for the provision relating to treatment of partnership items of individual retirement accounts from taxable years beginning after December 31, 1992, to taxable years beginning after December 31, 1993.

Title IV--Foreign Provisions

1. Modify sections 401-404 of the bill (relating to the deferral of tax on income earned through foreign corporations and exceptions to deferral) to conform to the amendments made to the corresponding provisions of present law by the 1993 Act.

2. Delete section 412 of the bill (providing regulatory authority to simplify the rules for determining foreign tax credits upon receipt of previously taxed earnings) because a broader simplification of those rules was enacted in the 1993 Act.

3. Delete section 415 of the bill (relating to a study of certain investments in U.S. property by controlled

foreign corporations) because such a study is required by the conference report accompanying the 1993 Act.

4. Move the effective date of section 423 of the bill (relating to tax on transfers to avoid income tax) from transfers after the date of enactment to transfers after December 31, 1994.

5. Move the effective date of section 424 of the bill (relating to certain other transfers) from transfers after December 31, 1993, to transfers after December 31, 1994.

Title V--Treatment of Intangibles

1. Delete sections 501 and 502 of the bill (relating to amortization of goodwill and certain other intangibles) because similar provisions were enacted in the 1993 Act.

Title VI--Other Income Tax Provisions

1. Delete section 612 of the bill (relating to IRS regulatory authority with respect to the uniform capitalization rules of Code section 263A) because the Treasury Department issued regulations on August 9, 1993, making the provision in the bill obsolete.

2. Modify section 622 of the bill (relating to basis rules for shares in open-end regulated investment companies) by (1) creating a $25 de minimis exception for wash sale losses from mutual fund accounts that are subject to the proposed basis reporting rule and (2) moving the date, from January 15 to December 31, by which the acquisition of the replacement mutual fund had to be made for the modification to the load basis deferral rule to apply.

3. Delete section 633 of the bill (relating to the aggregation of issue rules as they apply to certain tax and revenue anticipation bonds) because the provision was made duplicative by recent Treasury regulations.

4. Delete section 634 of the bill (relating to the repeal of the disproportionate private business use test) because of revenue constraints.

5. Delete section 635 of the bill (relating to an expanded exception from rebate for issuers issuing $10,000,000 or less of bonds) because of revenue constraints.

6. Modify section 638 of the bill (relating to the clarification of investment-type property) to reflect provisions of Treasury Department regulations issued since introduction of H.R. 13.

7. Delete section 652 of the bill (relating to certain changes of ownership under the corporate alternative minimum tax) because of revenue constraints.

8. Delete section 653 of the bill (relating to depreciation conformity for the corporate alternative minimum tax) because a provision of the 1993 Act made the provision in the bill obsolete.

Title VII--Estate And Gift Tax Provisions

No proposed changes to Title VII as introduced.

Title VIII--Excise Tax Simplification

1. Delete sections 801-805 of the bill (relating to fuel excise tax simplification) because the fuel excise taxes were modified significantly in the 1993 Act.

Title IX--Administrative Provisions

1. Delete section 901 of the bill (relating to employment taxes on domestic services).

2. Move the effective date of section 904 of the bill (relating to TEFRA audit rules for S corporations) from taxable years beginning after the date of enactment, to taxable years ending after the date of enactment.

3. Move the effective date of section 906 of the bill (relating to certain notices disregarded under provision increasing interest rate on large corporate underpayments) from the determination of interest for periods after December 31, 1990, to the determination of interest for periods after December 31, 1993.

4. Delete section 907 of the bill (relating to special rule for corporate estimated taxes where no liability for preceding year) because of revenue constraints.

PART TWO: ADDITIONAL SIMPLIFICATION PROVISIONS IN H.R. 3419

A. In General

1. Certain Trusts Eligible to Hold Stock in S Corporations

Present Law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts (for a 60-day or two-year period), and "qualified subchapter S trusts" may not be shareholders in an S corporation. A "qualified subchapter S trust" is a trust that is required to have only one current income beneficiary (for life). All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

Description of Proposal

In general

H.R. 13 included several simplification proposals relating to S corporations. This proposal would allow stock in an S corporation to be held by certain trusts ("electing small business trusts"). In order to qualify for this treatment, all beneficiaries of the trust would have to be individuals or estates, except that charitable organizations could hold contingent remainder interests. No interest in the trust could be acquired by purchase. For this purpose, "purchase" would mean any acquisition of property with a cost basis (determined under section 1012). Thus, interests in the trust would have to be acquired by reason of gift, bequest, etc.

A trust would be required to elect to be treated as an electing small business trust. An election would apply to the taxable year for which made and could be revoked only with the consent of the Secretary of the Treasury or his delegate.

Each potential current beneficiary of the trust would be counted as a shareholder for purposes of the 35-shareholder limitation (or, if there were no potential current beneficiaries, the trust would be treated as the shareholder). A potential current income beneficiary would mean any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. Where the trust disposes of all the stock in an S corporation, any person who first became so eligible during the 60 days before the disposition would not be treated as a potential current beneficiary.

A qualified subchapter S trust with respect to which an election is in effect and an exempt trust would not be eligible to qualify as an electing small business trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations would be treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust would be taxed at the highest individual rate (currently 39.6 percent) on this portion of the trust's income. The taxable income attributable to this portion would include (1) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (2) gain or loss from the sale of the S corporation stock, and (3) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses would be allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction would be allowed for amounts distributed to beneficiaries, and no deduction or credit would be allowed for any item other than the items described above. This income would not be included in the distributable net income of the trust, and thus would not be included in the beneficiaries' income. No item relating to the S corporation stock could be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust, the loss carryovers or excess deductions referred to in section 642(h) would be taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust would be disregarded. Although distributions from the trust would be deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income would not include any income attributable to the S corporation stock.

<u>**Termination of trust and conforming amendment applicable to all trusts and estates**</u>

Where the trust terminates before the end of the S corporations's taxable year, the trust would take into account its pro rata share of income, etc. of the corporation for its final taxable year. The proposal would make a conforming amendment applicable to all trusts and estates clarifying that this is the present law treatment of trusts and estates which terminate before the end of the S corporation's taxable year.

<u>**Effective Date**</u>

The proposal would apply to taxable years beginning after the date of enactment.

B. Administrative Practice and Procedural Simplification

1. Notification of reasons for termination or denial of installment agreements

<u>**Present Law**</u>

Section 6159 authorizes the Internal Revenue Service (IRS) to enter into written installment agreements with taxpayers to facilitate the collection of tax liabilities. In general, the IRS has the right to terminate (or in some instances, alter or modify) such agreements if the taxpayer provided inaccurate or incomplete information before the agreement was entered into, if the taxpayer fails to make a timely payment of an installment or another tax liability, if the taxpayer fails to provide the IRS with a requested update of financial condition, if the IRS determines that the financial condition of the taxpayer has changed significantly, or if the IRS believes collection of the tax liability is in jeopardy. If the IRS determines that the financial condition of a taxpayer that has entered into an installment agreement has changed significantly, the IRS must provide the taxpayer with a written notice that explains the IRS determination at least 30 days before altering, modifying or terminating the installment agreement. No notice is statutorily required if the installment agreement is altered, modified, or terminated for other reasons.

<u>**Description of Proposal**</u>

The proposal would require the IRS to notify taxpayers 30 days before altering, modifying, or terminating any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The IRS must include in the notification an explanation of why the IRS intends to take this action. Any insufficiency in the explanation of the denial has no effect on the availability of an installment agreement to the taxpayer. The proposal also would require that the IRS notify taxpayers 30 days before denying any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy.

Effective Date

The proposal would be effective six months after the date of enactment.

2. Joint return may be made after separate returns without full payment of tax

Present Law

Taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded by statute from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability before the expiration of the three-year period for making the election to file jointly.

Description of Proposal

The proposal would repeal the requirement of full payment of tax liability as a precondition to switching from married filing separately status to married filing jointly status.

Effective Date

The proposal would apply to taxable years beginning after the date of enactment.

3. Offers-in-compromise

Present Law

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected, or there is doubt as to the validity of the actual tax liability. Amounts over $500 can only be accepted if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel.

Description of Proposal

The proposal would allow acceptance of an offer-in-compromise where the compromise would be in the best interest of the Government. The proposal also would increase from $500 to $50,000 the amount requiring a written opinion from the Office of Chief Counsel. Compromises below the $50,000 threshold must be subject to continuing quality review by the IRS.

Effective Date

The proposal would be effective on the date of enactment.

4. Preliminary notice requirements relating to penalty for failure to collect and pay over tax

Present Law

A "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected or paid to the government on a timely basis. An individual the IRS has identified as a responsible person is permitted an administrative appeal on the question of responsibility.

Description of Proposal

The proposal would require the IRS to issue a notice to an individual the IRS had determined to be a responsible person with respect to unpaid trust fund taxes at least 60 days prior to issuing a notice and demand for the penalty. The statute of limitations would not expire before the date 60 days after the date on which the notice was mailed. The proposal would not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Effective Date

The proposal would apply to assessments made after June 30, 1995.

5. Penalties relating to failure to collect and pay over tax

i. Public information requirements

Present Law

Under section 6672, a "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

Description of Proposal

The proposal would require the IRS to take such action as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system and the circumstances under which they may be liable for penalties for failure to make tax deposits. Among other things, IRS would be required to print warnings on payroll tax deposit coupon books and appropriate tax returns indicating that certain employees may be liable for this penalty, and to develop a special information packet relating to this penalty.

Effective Date

The proposal would be effective on the date of enactment.

ii. Board members of tax-exempt organizations

Present Law

Under section 6672, "responsible persons" of tax-exempt organizations are subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

Description of Proposal

The proposal would clarify that the section 6672 responsible person penalty is not to be imposed on volunteer, unpaid members of any board of trustees or directors of a tax-exempt organization to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial activities of the organization. To be exempt, an honorary board member cannot have actual knowledge of the failure to deposit taxes and the proposal would not operate in such a way as to eliminate all responsible persons from responsibility. The proposal would require the IRS to develop materials to better inform board members of tax-exempt organizations (including voluntary or honorary members) that they may be treated as responsible persons. The IRS would be required to make such materials routinely available to tax-exempt organizations. The proposal also would require the IRS to clarify its instructions to IRS employees on application of the responsible person penalty with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

Effective Date

The proposal would be effective on the date of enactment.

iii. Prompt notification

Present Law

The IRS is not required to notify promptly taxpayers who fall behind in depositing trust fund taxes.

Description of Proposal

The proposal would require IRS, to the maximum extent practicable, to notify all persons who have failed to make timely and complete deposit of any taxes described in section 6672 of the Code of that failure within 30 days after the return was filed reflecting the delinquency or within 30 days of the first indication that there has been a failure to make a timely and complete deposit, whichever is earlier. Failure by the IRS to provide notice under this provision does not absolve any individual from any liability for penalties.
The proposal also would require that a taxpaying entity notified by the Secretary of a failure to pay such taxes must notify, within 15 days of such notification by the Secretary, all of the entity's officers, general partners, trustees or other managers of the failure to make a timely and complete deposit.

Effective Date

The proposal would be effective on the date of enactment.

6. Required content of certain notices

Present Law

The Code requires the IRS to describe the basis for and identify the amounts of tax due, interest, penalties, and any other additional amounts owed in the notice of deficiency sent to taxpayers.

Description of Proposal

The proposal would require that the IRS set forth the components of and explanation for each specific adjustment that is the basis for the total tax deficiency. An inadequate description does not invalidate the notice.

Effective Date

The proposal would apply to notices sent after the date six months after the date of enactment.

7. Required notice to taxpayers of certain payments

Present Law

If the IRS receives a payment without sufficient information to properly credit it to a taxpayer's account, the IRS may attempt to contact the taxpayer. If contact cannot be made, the IRS places the payment in an unidentified remittance file.

Description of Proposal

The proposal would require the IRS to make reasonable efforts to notify, within 60 days, those taxpayers who have made payments which the IRS cannot associate with any outstanding tax liability.

Effective Date

The proposal would be effective on the date of enactment.

8. Improved procedures for notifying IRS of change of address or name

Present Law

Generally, the IRS posts the new address of a taxpayer only upon the filing of the subsequent tax return which contains a new address or if the taxpayer submits a Form 8822, Change of Address, to the IRS. IRS does not necessarily update all of its records with the new address.

Description of Proposal

The proposal would require the IRS to provide improved procedures for taxpayers to notify the IRS of changes in names or addresses. In addition, the proposal would require that the IRS institute procedures on or before December 31, 1994 for the timely updating of all IRS records with change of address information provided to the IRS by taxpayers.

Effective Date

The proposal would be effective on the date of enactment.

9. Rights and responsibilities of divorced individuals

Present Law

The IRS provides information on the rights and responsibilities of divorced individuals in Publication 504, Tax Information for Divorced or Separated Individuals. This publication is not as widely utilized as Publication 1, Your Rights As a Taxpayer.

Description of Proposal

The proposal would require the IRS to include a section on the rights and responsibilities of divorced individuals in Publication 1, Your Rights As a Taxpayer.

Effective Date

The proposal would be effective on the date of enactment.

PART THREE: REVENUE-RAISING PROVISIONS IN H.R. 3419

A. Require Taxpayers to Include Rental Value of Residence in Income Without Regard to Period of Rental

Present Law

Gross income for purposes of the Internal Revenue Code generally includes all income from whatever source derived, including rents. The Code (section 280A(g)) provides a de minimis exception to this rule where a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year. In this case, the income from such rental is not included in gross income and no expenses arising from such rental use are allowed as a deduction.

Description of Proposal

Generally, the proposed amendment would repeal the 15-day rule of Code section 280A(g). However, if the taxpayer rents (at a rate not greater than the reasonable commercial rate) his or her principal residence for less than 15 days for the purpose of providing accommodations to visitors to an event for which commercial accommodations can provide no more than one-half of the needed accommodations, then the current-law exclusion (and denial of deductions) would continue to apply.

Effective Date

The proposal would apply to taxable years beginning after December 31, 1993.

B. Treat Certain Foreign Corporate Dividends and Deemed Income Inclusions as Unrelated Business Taxable Income

Present Law

An organization that is exempt from tax by reason of Code section 501(a) (e.g., a public charity or a qualified pension trust) is nonetheless subject to tax on its unrelated business taxable income (UBTI) (section 511). Unrelated business taxable income generally excludes dividend income (section 512(b)(1)).

Exceptions to this rule exist, however, in the case of certain dividends that are either business income of the recipient or distributions of business earnings on which the payor of the dividends was exempt from tax. For example, if a tax-exempt organization engages in commercial-type insurance activities, such activities are considered to be an unrelated trade or business and tax is computed on income from the activity (including income from investment assets that might otherwise generate tax-exempt income under the unrelated business taxable income rules) under subchapter L (section 501(m)(2)). As another example, a Domestic International Sales Corporation (DISC) is a domestic corporation exempt from U.S. income taxation by reason of section 991. Any dividend paid or deemed paid by a DISC to an organization that is exempt from tax under section 501(a) is treated as unrelated business taxable income (section 995(g)).

Although the Code is generally designed to impose only a single corporate-level tax on corporate earnings, a dividend paid by a foreign corporation to a U.S. corporation eligible for an indirect foreign tax credit on the dividend may have been subject to foreign tax at a rate lower than the full U.S. (35-percent) rate, and may therefore be subject to additional U.S. tax in the hands of the corporate shareholder. For example, if a gross dividend of $100 carries a total foreign tax credit of $20 (representing either direct or indirect foreign taxes, or both), the dividend represents a distribution of earnings that were subject to foreign tax at less than the full U.S. rate. If the recipient is a taxable U.S. person that is eligible for the indirect foreign tax credit, $15 of net U.S. tax is imposed on the recipient, representing the amount by which one full level of U.S. corporate tax exceeds the foreign taxes that were actually imposed. However, no similar U.S. tax is imposed on that amount if the recipient is generally exempt from U.S. tax under section 501(a).

The treatment of subpart F inclusions as unrelated business taxable income under present law is unclear.[6] While temporary Treasury regulations specifically provide that subpart F income attributable to tax-exempt bond interest will retain that character in the hands of a U.S. shareholder, a similar rule has not been provided for treatment as unrelated business taxable income.

---

[6] Some IRS private letter rulings, which are not to be used or cited as precedent, have held that subpart F inclusions are treated as if realized directly by the U.S. shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see, e.g., LTR 9043039 (July 30, 1990)), while other IRS private letter rulings have held that subpart F inclusions are treated as dividends received by the U.S. shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see, e.g., LTR 9027051 (April 13, 1990)).

Description of Proposal

The proposal would treat as unrelated business taxable income certain distributions made by a foreign corporation to a tax-exempt entity that is otherwise generally subject to taxation on income from an unrelated business, and that owns sufficient stock in the foreign corporation to be eligible for an indirect foreign tax credit with respect to the dividend. Similarly, the proposal would treat as unrelated business taxable income certain amounts that would be included in the income of a tax-exempt entity (if the tax-exempt entity were subject to tax) as a deemed distribution from a controlled foreign corporation.

Under the proposal, distributions of earnings by a foreign corporation would be treated as unrelated business taxable income in the same proportion that the earnings and profits of the foreign corporation would be treated as unrelated business taxable income if received directly by the recipient tax-exempt entity. Income inclusions under subpart F would be treated as unrelated business taxable income to the extent that the subpart F income of the controlled foreign corporation would be treated as unrelated business taxable income if received directly by the tax-exempt entity.

Effective Date

The proposal would be effective for distributions of earnings and profits that are generated in taxable years of foreign corporations beginning after December 31, 1993, and for inclusions of income under subpart F in respect of taxable years of foreign corporations beginning after December 31, 1993.

C. Withholding on Gambling Winnings from Bingo and Keno

Present Law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 28 percent if such proceeds exceed $5,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from bingo or keno.

Description of Proposal

The proposal would impose withholding on proceeds from bingo or keno wagering transactions at a rate of 28 percent if such proceeds exceed $10,000, regardless of the odds of the wager.

Effective Date

The proposal would be effective for payments made after December 31, 1993.

D. Require Thrift Institutions to Take Net Operating Loss Carryovers into Account for Purposes of Calculating Bad Debt Reserves Under the Percentage of Income Method

Present Law

Thrift institutions may, in general, take a deduction for bad debts equal to 8 percent of their taxable income in a particular year (sec. 593).

Treasury regulations provide that taxable income must be reduced by net operating loss (NOL) carrybacks for purposes of calculating the bad debt reserve deduction of thrift institutions (Treas. reg. sec. 1.593-6A(b)(5)). The U.S. Tax Court and a Federal district court held that the regulations on this point were invalid.[7] However, the U.S. Court of Appeals for the Ninth and Sixth Circuits overruled such holdings.[8]

---

[7] See, e.g., Pacific First Federal Savings Bank v. Commissioner, 94 T.C. 101, (1990); Peoples Federal Savings and Loan Association of Sidney v. Commissioner, 59 T.C.M. 85 (1990); and First Federal Savings Bank of Washington v. Commissioner, 766 F. Supp. 897 (E.D. Wa. 1991).

[8] Pacific First Federal Savings Bank v. Commissioner, 961 F.2d 800 (9th Cir.), cert. denied, 113 S.Ct. 209 (1992); and Peoples Federal Savings and Loan Association of Sidney v. Commissioner, 948 F.2d 289 (6th Cir. 1991).

Description of Proposal

The proposal would codify that portion of the Treasury regulations that provide that taxable income must be reduced by NOL and capital loss carrybacks for purposes of calculating the bad debt reserve deduction of thrift institutions under the percentage of taxable income method.

Effective Date

The proposal would be effective for losses incurred in taxable years ending after December 31, 1993. No inference would be intended as to the validity of the regulations with respect to losses incurred prior to the effective date of the proposal.

TECHNICAL CORRECTIONS

PART ONE: MODIFICATIONS TO THE PROVISIONS OF H.R. 17 IN H.R. 3419

The following modifications to the provisions of H.R. 17 have been made in the drafting of H.R. 3419:

A. Delete Provision Relating to Minimum Tax Rate on Certain Nonresident Aliens (sec. 101(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

The provision of the bill relating to minimum tax rate on certain nonresident aliens would be deleted because the provisions of the 1993 Act made the provision obsolete.

B. Delete Provision Relating to Tax Rate of Personal Holding Companies (sec. 101(a)(4) of the bill, sec. 11101 of the 1990 Act, and sec. 541 of the Code)

The provision of the bill relating to tax rate of personal holding companies would be deleted because the provisions of the 1993 Act made the provision obsolete.

C. Delete Provision Relating to Definition of AGI for the Earned Income Tax Credit and the Supplemental Earned Income Tax Credit for Health Insurance Premiums (sec. 101(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

The provision of the bill relating to the definition of adjusted gross income for the earned income tax credit and the supplemental earned income tax credit for health insurance premiums would be deleted because the provisions of the 1993 Act made the provision obsolete.

D. Delete Provision Relating to Tax on Certain Uses (sec. 101(b)(2) of the bill, sec. 1703(a) of the Tax Reform Act of 1986, and sec. 4082 of the Code)

The provision of the bill relating to the definition of certain uses as removal for purposes of manufacturers' tax on gasoline would be deleted because the provisions of the 1993 Act made the provision obsolete.

E. Modify Provision Relating to Treatment of Salvage and Subrogation of Property and Casualty Insurance Companies (sec. 101(c)(4) of the bill and sec. 11305 of the 1990 Act)

H.R. 17 provides that the special deduction that is allowed over the first four taxable years beginning after December 31, 1989, is to be taken into account in determining earnings and profits for purposes of applying sections 56, 902, 952(c)(1) and 960 of the Internal Revenue Code of 1986 (the "Code"). This section would be modified to provide that the special deduction is to be taken into account in determining earnings and profits for purposes of applying sections 56 and 902, and subpart F of part II of subchapter N of chapter 1. This modification to the bill would be necessary in order to provide those property and casualty insurance companies that took into account estimated salvage and subrogation recoverable in determining losses incurred with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the 1990 Act did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

F. Delete Provision Relating to Exclusion for Employer-provided Educational Assistance (sec. 101(d)(1) of the bill, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code)

The provision of the bill would be deleted because a similar provision was included in the 1993 Act.

G. Delete Provisions Relating to the Treatment of Certain Contributions Made Pursuant to Veterans' Reemployment Rights (sec. 102(j) of the bill and sec. 414(u) of the Code)

The provisions of the bill relating to the treatment of certain contributions to the retirement plans of reemployed veterans would be deleted because the Uniformed Services Employment and Reemployment Rights Act of 1993 (H.R. 995), legislation recently reported out by the Veterans Committee, contains provisions of broader scope than the provisions of the bill.

H. Delete Provision Relating to Treatment of Certain RIC and REIT Reorganizations (sec. 102(l) of the bill and sec. 852(a) of the Code)

The provision of the bill regarding the treatment of certain reorganizations of regulated investment companies and real estate investment trusts would be deleted because a similar provision was included in Treasury regulations.

I. Modify Effective Date Provision Relating to the Energy Policy Act of 1992 (sec. 102(m)(1) of the bill and sec. 53(d)(1)(B)(iii) and (iv) of the Code)

This provision, which amends Code section 53(d)(1)(B)(iv), would be modified to correct the effective date to apply to taxable years beginning after December 31, 1990. A similar modification would be made to apply the amendment made by the Energy Policy Act of 1992 to Code section 53(d)(1)(B)(iii) to taxable years beginning after December 31, 1990.

J. Modify Provision Relating to the Elimination of the Rounding Distortion in the Calculation of the Social Security Contribution and Benefit Base and the Earnings Test Exempt Amounts (sec. 202 of the bill and 42 U.S.C. 430(b))

References to the Hospital Insurance contribution base would be deleted because the provisions of the 1993 Act made these references obsolete, and the effective date would be changed to apply to determinations of the OASDI contribution and benefit base for years after 1994 and to determinations of the social security earnings test exempt amounts for taxable years ending after 1994.

PART TWO: TECHNICAL CORRECTIONS TO THE 1993 ACT IN H.R. 3419

The following technical corrections to the 1993 Act have been made by H.R. 3419:

A. Treatment of Full-Time Students Under the Low-income Housing Credit (sec. 13142 of the 1993 Act and sec. 42 of the Code)

Present Law

The 1993 Act codified prior law rules relating to the treatment of married students filing joint returns. Further, it provided that a housing unit occupied entirely by full-time students may qualify for the credit if the full-time students are a single parent and his or her minor children and none of the tenants is a dependent of a third party.

Description of Proposal

The proposal provides that the full-time student provision would be effective on the date of enactment of the 1993 Act.

B. Indexation of the Limitation Based on Modified Adjusted Gross Income for Income from United States Savings Bonds Used to Pay Higher Education Tuition and Fees (sec. 13201 of the 1993 Act and sec. 135(b)(2)(B) of the Code)

Present Law

A taxpayer may exclude from gross income the proceeds from the redemption of qualified United States savings bonds if the proceeds are used to pay qualified higher education expenses and the taxpayer's modified adjusted gross income is equal to or less than $60,000 ($40,000 in the case of a single return). The exclusion is phased out for incomes above these thresholds. The $60,000 ($40,000) threshold is indexed for inflation occurring after 1992.

Description of Proposal

The proposal would correct the indexing of the $60,000 ($40,000) threshold to provide that the thresholds would be indexed for inflation after 1989, as was provided prior to the 1993 Act.

C. Indexation of the Limitation on Compensation Taken into Account for Qualified Retirement Plan Purposes (sec. 13212 of the 1993 Act and sec. 401(a)(17) of the Code)

Present Law

The 1993 Act reduced the limitation on compensation taken into account for qualified retirement plan purposes to $150,000. The 1993 Act also provided that for calendar years after 1994, the compensation limit should be increased for changes in the cost-of-living on an annual basis and rounded down to the next lowest increment of $10,000.

Description of Proposal

The proposal would clarify that annual cost-of-living adjustments to the compensation limit should apply to the calendar year for which the cost of living adjustment is determined. The provision would also clarify how the rounding rules apply to the compensation limit.

D. Reporting and Notification Requirements for Lobbying and Political Expenditures of Tax-Exempt Organizations (sec. 13222 of the 1993 Act and sec. 6033(e) of the Code)

Present Law

Tax-exempt organizations which incur political expenditures are subject to tax under Code section 527(f). The tax is calculated by applying the highest corporate rate to the lesser of (a) the net investment income of the organization, or (b) the amount of political expenditures incurred by the organization during the taxable year. Expenditures covered by Code section 527(f) are those expended for "influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether of not such individual or electors are selected, nominated, elected, or appointed."

Code section 162(e), as amended by the 1993 Act, provides a separate set of rules regarding the tax treatment of lobbying and political expenditures. Political expenditures include amounts paid or incurred in connection with "participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office." Taxpayers may not deduct the portion of dues or similar amounts paid to a tax-exempt organization which the organization notifies the taxpayer are allocable to lobbying or political expenditures.

Code section 6033(e) sets forth reporting and notification requirements applicable to tax-exempt organizations (other than charities) that incur lobbying or political expenditures within the meaning of Code section 162(e). First, the organization must report on its annual tax return both the total amount of its lobbying and political expenditures, and the total amount of dues (or similar payments) allocable to such expenditures. Second, the organization must either provide notice to its members of the portion of dues allocable to lobbying and political expenditures (so that such amounts are not deductible by members), or may elect to pay a proxy tax (at the highest corporate rate) on its lobbying and political expenditures, up to the amount of dues receipts.

Description of Proposal

The proposal would amend Code section 6033(e) to clarify that any political expenditures on which tax is paid pursuant to Code section 527(f) are not subject to the reporting and notification requirements of Code section 6033(e). In addition, the proposal would clarify that the reporting and notification requirements of Code section 6033(e) apply to organizations exempt from tax under Code section 501(a), other than charities described in section 501(c)(3).

E. Estimated Tax Rules for Certain Tax-Exempt Organizations (sec. 13225 of the 1993 Act and sec. 6655(g)(3) of the Code)

Present Law

A tax-exempt organization is generally subject to an addition to tax for any underpayment of estimated tax on its unrelated business taxable income or its net investment income (as the case may be). Under the 1993 Act, for years beginning after December 31, 1993, a corporation or tax-exempt organization does not have an underpayment of estimated tax if it makes four timely estimated tax payments that total at least 100 percent of the tax liability shown on its return for the current taxable year. A corporation or tax-exempt organization may estimate its current year tax liability prior to year-end by annualizing its income. The 1993 Act also changed the method by which a corporation annualizes its current year tax liability.

Description of Proposal

The proposal would clarify that the 1993 Act did not change the method by which a tax-exempt organization annualizes its current year tax liability.

F. Current Taxation of Certain Earnings of Controlled Foreign Corporations--Measurement of Accumulated Earnings (sec. 13231(b) of the 1993 Act and sec. 956A(b) of the Code)

Present Law

Present law, as modified by the 1993 Act, limits the availability of deferral of U.S. tax on certain earnings of controlled foreign corporations by requiring U.S. shareholders of a controlled foreign corporation to include in income the corporation's accumulated[9] or current earnings invested in excess passive assets. Some have argued that the Code's definition of earnings subject to this treatment permits an accumulated deficit in earnings to eliminate positive current earnings, resulting in no income inclusion in a case where an actual distribution would be treated as a dividend out of current earnings. In addition, some have argued that the Code's definition of earnings subject to this treatment takes current-year earnings into account more than once.

Description of Proposal

The proposal would clarify that the accumulated earnings and profits of a controlled foreign corporation taken into account for purposes of determining the foreign corporation's earnings invested in excess passive assets do not include any deficit in accumulated earnings and profits[10], and do not include current earnings (which are taken into account separately).

G. Current Taxation of Certain Earnings of Controlled Foreign Corporations--Aggregation and Look-through Rules (sec. 13231(b) of the 1993 Act and sec. 956A(f) of the Code)

Present Law

Present law, as modified by the 1993 Act, provides certain aggregation and look-through rules in connection with requiring U.S. shareholders of a controlled foreign corporation to include in income certain of the corporation's earnings invested in excess passive assets. Under the aggregation rule, certain groups of controlled foreign corporations that are linked by

[9] Accumulated earnings and profits are taken into account only to the extent that they were accumulated in taxable years beginning after September 30, 1993.

[10] Incurred in taxable years beginning after September 30, 1993.

stock ownership of more than 50 percent (CFC groups) are treated as a single corporation for purposes of determining their earnings invested in excess passive assets. Look-through treatment applies to certain corporations whose stock is owned at least 25 percent by a controlled foreign corporation. Some have argued that these rules permit the assets of one foreign corporation to be taken into account more than once through a combination of CFC group treatment and look-through treatment. In addition, some have argued that these rules permit the assets of one foreign corporation to be taken into account in more than one CFC group.

Description of Proposal

The proposal would clarify that, within the regulatory authority provided to the Secretary of the Treasury under the 1993 Act, regulations are specifically authorized to coordinate the CFC group treatment and look-through treatment applicable for purposes of determining a foreign corporation's earnings invested in excess passive assets. Pending the promulgation of guidance by the Secretary, it would be intended that taxpayers be permitted to coordinate such treatment using any reasonable method for taking assets into account only once, so long as the method is consistently applied to all controlled foreign corporations (whether or not members of any CFC group) in all taxable years.

H. Treatment of Certain Leased Assets for PFIC Purposes (sec. 13231(d)(4) of the 1993 Act and sec. 1297(d) of the Code)

Present Law

Under present law, as modified by the 1993 Act, certain property leased by a foreign corporation may be treated as an asset actually owned by the foreign corporation in measuring the assets of the foreign corporation for purposes of the passive foreign investment company (PFIC) asset test of sec. 1296(a)(2). The 1993 Act provided a special measurement rule, under which the adjusted basis of the leased asset for this purpose is determined by reference to the unamortized portion of the present value of the payments under the lease for the use of the property. Some have argued, however, that the special measurement rule does not apply to PFICs that are permitted to measure their assets by fair market value, rather than by adjusted basis. Under this argument, the entire fair market value of the leased asset might be treated as owned by the foreign corporation.

Description of Proposal

The proposal would clarify that, in the case of any item of property leased by a foreign corporation and treated as an asset actually owned by the foreign corporation in measuring the assets of the foreign corporation for purposes of the PFIC asset test, the amount taken into account with respect to the leased property is the amount determined under the 1993 Act's special measurement rule, which is based on the unamortized portion of the present value of the payments under the lease for the use of the property. That is, the proposal would clarify that the special measurement rule of the 1993 Act applies to all PFICs, regardless of whether they are generally permitted to measure their assets by fair market value rather than adjusted basis.

I. Amortization of Goodwill and Certain Other Intangibles (sec. 13261(g) of the 1993 Act and sec. 197 of the Code)

Present Law

The 1993 Act allows amortization deductions for certain intangible assets acquired after the 1993 Act's effective date that were not amortizable under prior law. The 1993 Act contains "antichurning" rules that deny amortization to intangible assets that were not amortizable under prior law if such assets are acquired by the taxpayer after the effective date from certain related parties.

The 1993 Act also contains an election under which a taxpayer and certain related parties may elect to treat all acquisitions after July 25, 1991, as subject to the provisions of the 1993 Act.

Description of Proposal

The proposal would clarify that, when a taxpayer and its related parties have made an election to apply the 1993 Act to all acquisitions after July 25, 1991, the antichurning rules do not apply when property acquired from an unrelated party after July 25, 1991 (and not subject to the antichurning rules in the hands of the acquirer) is transferred to a taxpayer related to the acquirer after the date of enactment of the 1993 Act.

J. Empowerment Zones and Eligibility of Small Farms for Tax Incentives (sec. 13301 of the 1993 Act and sec. 1397B(d)(5)(B) of the Code)

Present Law

Under the 1993 Act, during 1994 and 1995, six empowerment zones and 65 enterprise communities will be designated in eligible urban areas, and three empowerment zones and 30 enterprise communities will be designated in rural areas. Special tax incentives (i.e., a wage credit, additional section 179 expensing, and expanded tax-exempt financing) are available for certain business activities conducted in urban and rural empowerment zones. Expanded tax-exempt financing benefits are available for certain facilities located in urban and rural enterprise communities.

The empowerment zone wage credit is not available with respect to any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) and (B) of sec. 2032A(e)(5)) if, as of the close of the current taxable year, the sum of the aggregate unadjusted bases (or, if greater, the fair market value) of assets of the farm exceeds $500,000 (sec. 1396(d)(2)(E)). In contrast, the additional section 179 expensing (available in empowerment zones) and expanded tax-exempt financing benefits (available in both empowerment zones and enterprise communities) are not allowed for any trade or business the principal activity of which is farming if, as of the close of the preceding taxable year, the sum of the aggregate bases (or, if greater, the fair market value) of the assets of the farm exceeds $500,000 (sec. 1397B(d)(5)).

Description of Proposal

Under the proposal, the $500,000 asset test for determining whether a farm is eligible for additional section 179 expensing (in an empowerment zone) and expanded tax-exempt financing benefits (in an empowerment zone or enterprise community) would be applied based on the assets of the farm at the end of the current taxable year. Thus, the $500,000 asset test for determining farm eligibility would be based on the same taxable period (i.e., the current taxable year) for purposes of all tax incentives available in empowerment zones and enterprise communities.

PART THREE: TECHNICAL CORRECTION AND MODIFICATION TO THE LUXURY TAX IN H.R. 3419

A. Indexation of Threshold Applicable to Excise Tax on Luxury Automobiles (sec. 13161 of the 1993 Act and sec. 4001(e)(1) of the Code)

Present Law

The 1993 Act indexed the threshold above which the excise tax on luxury automobiles is to apply.

Description of Proposal

The proposal would correct the application of the indexing adjustment so that the adjustment calculated for a given calendar year would apply for that calendar year rather than in the subsequent calendar year. This would conform the indexation to that described in the conference report to the 1993 Act.[11] The intent of Congress, as reflected in the conference report, was that current year indexation be effective on the date of enactment of the 1993 Act. The proposal would, however, be effective on January 1, 1994, to alleviate the difficulties that both taxpayers and the Treasury would experience in administering a retroactive refund effective to August 10, 1993.

---

[11] See Conference Report on H.R. 2264, Omnibus Budget Reconciliation Act of 1993 (H. Rept. 103-213), August 4, 1993, at page 558.